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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO	
10/630,166	07/30/2003	Rajmani Tigunait	521 P 049	7643	
7590 03/10/2006			EXAMINER		
Michael D. La	ke	MELLER, MICHAEL V			
	N & WAGNER, LTD. ker Drive - 5300	ART UNIT	PAPER NUMBER		
Chicago, IL 60		1655			
			DATE MAN ED: 02/10/2007		

DATE MAILED: 03/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

		1	Application No.	Applicant(s)					
,	Office Andrew Occurre		10/630,166	TIGUNAIT ET AL					
	Office Action Summary		Examiner	Art Unit					
			Michael V. Meller	1655					
Period fo	- The MAILING DATE of this commur r Reply	nication appea	ers on the cover sheet with the	correspondence ad	Idress				
WHIC - Exten after S - If NO - Failur Any re	DRTENED STATUTORY PERIOD F HEVER IS LONGER, FROM THE N sions of time may be available under the provisions SIX (6) MONTHS from the mailing date of this comr period for reply is specified above, the maximum st e to reply within the set or extended period for reply eply received by the Office later than three months d patent term adjustment. See 37 CFR 1.704(b).	MAILING DAT s of 37 CFR 1.136(munication. latutory period will y will, by statute, ca	E OF THIS COMMUNICATION a). In no event, however, may a reply be apply and will expire SIX (6) MONTHS from the application to become ABANDON	NN. imely filed in the mailing date of this of ED (35 U.S.C. § 133).					
Status									
1)[Responsive to communication(s) file	ed on .							
· —	This action is FINAL . 2b) This action is non-final.								
3)									
	closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.								
Disposition	on of Claims								
4)⊠	4)⊠ Claim(s) <u>1-35</u> is/are pending in the application.								
4	4a) Of the above claim(s) is/are withdrawn from consideration.								
5)	5) Claim(s) is/are allowed.								
6)	Claim(s) is/are rejected.								
7)	Claim(s) is/are objected to.								
8)⊠	8) Claim(s) <u>1-35</u> are subject to restriction and/or election requirement.								
Application	on Papers								
9)[] 7	The specification is objected to by th	e Examiner.							
10)[10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.								
	Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).								
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).									
11)[] 7	The oath or declaration is objected to	o by the Exar	niner. Note the attached Offic	e Action or form P	ΓO-152.				
Priority u	nder 35 U.S.C. § 119								
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of:									
	1. Certified copies of the priority documents have been received.								
	 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage 								
	_ ,			ed in this National	Stage				
application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.									
3	ee the attached detailed Office actic	on tot a list of	the certified copies not receiv	eu.					
Attachment	(s)								
1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413)									
	of Draftsperson's Patent Drawing Review (F	Paper No(s)/Mail (5) Notice of Informal		O-152)					
	Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Notice of Informal Patent Application (PTO-152)								

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-28, drawn to a solution, classified in class 435, subclass various.
- II. Claims 29-35, drawn to a method of treating nasal cavities, classified in class 424, subclass various.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product as claimed can be used in a materially distinct process such as treating cancer.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

This application contains claims directed to the following patentably distinct species of the claimed invention: there are many different plants, additives, etc.

Applicant is required to enumerate all of the specific components to be in the elected invention.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1 and 29 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record

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showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael V. Meller whose telephone number is 571-272-0967. The examiner can normally be reached on Monday thru Thursday: 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on 571-272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael V. Meller Primary Examiner Art Unit 1655

MVM